

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against: )

ANTHONY CHIEN-YANG CHEN, M.D. )

Case No. 8002015014372

Physician's & Surgeon's )  
Certificate No. G74781 )

Respondent. )

**ORDER CORRECTING NUNC PRO TUNC  
SPELLING OF RESPONDENT'S NAME IN DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error reflecting the spelling of Respondent's name throughout the Decision in the above-entitled matter, and that such clerical error should be corrected.

IT IS HEREBY ORDERED that the spelling of Respondent's name in the Decision in the above-entitled matter be and is hereby amended and corrected nunc pro tunc to reflect the correct spelling of Respondent's name as follows:

"Anthony Chien-Yang Chen, M.D."

IT IS SO ORDERED February 14, 2018.



Ronald H. Lewis, M.D., Chair  
Panel A  
Medical Board of California

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**ANTHONY CHIEN-YENG CHEN, M.D.**

**Case No. 8002015014372**

**Physician's and Surgeon's  
Certificate No. G74781**

**Respondent**

**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on March 2, 2018.**

**IT IS SO ORDERED: February 1, 2018.**

**MEDICAL BOARD OF CALIFORNIA**



**Ronald H. Lewis, M.D., Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 CHRIS LEONG  
Deputy Attorney General  
4 State Bar No. 141079  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
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7 E-mail: chris.leong@doj.ca.gov  
*Attorneys for Complainant*

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2015-014372

13 **ANTHONY CHIEN-YENG CHEN, M.D.**  
2417 Clear Creek Lane  
14 Diamond Bar, CA 91765

OAH No. 2017081029

15 Physician's and Surgeon's Certificate No.  
16 G 74781,

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

Respondent.

17  
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
19 interest and the responsibility of the Medical Board of California (Board), the parties hereby  
20 agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to  
21 the Board for approval and adoption as the final disposition of the Accusation.

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Board. She  
24 brought this action solely in her official capacity and is represented in this matter by Xavier  
25 Becerra, Attorney General of the State of California, by Chris Leong, Deputy Attorney General.

26 2. Respondent ANTHONY CHIEN-YENG CHEN, M.D. (Respondent) is represented in  
27 this proceeding by attorney Peter R. Osinoff, whose address is: Bonne Bridges et. al.,  
28 355 S. Grand Avenue, Suite 1750, Los Angeles, California 90071-1562.

3. On or about July 28, 1992, the Board issued Physician's and Surgeon's Certificate No. G 74781 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-014372, and will expire on October 31, 2019, unless renewed.

## JURISDICTION

4. Accusation No. 800-2015-014372 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 23, 2017. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2015-014372 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-014372. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2015-014372, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

12. Respondent agrees that if he ever petitions for early termination of probation or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2015-014372, shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

## CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following

Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 74781 issued to Respondent ANTHONY CHIEN-YENG CHEN, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **PRESCRIBING PRACTICES COURSE.** Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

2. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course

1 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully  
2 complete any other component of the course within one (1) year of enrollment. The medical  
3 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing  
4 Medical Education (CME) requirements for renewal of licensure.

5 A medical record keeping course taken after the acts that gave rise to the charges in the  
6 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
7 or its designee, be accepted towards the fulfillment of this condition if the course would have  
8 been approved by the Board or its designee had the course been taken after the effective date of  
9 this Decision.

10 Respondent shall submit a certification of successful completion to the Board or its  
11 designee not later than 15 calendar days after successfully completing the course, or not later than  
12 15 calendar days after the effective date of the Decision, whichever is later.

13 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of  
14 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
15 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.  
16 Respondent shall participate in and successfully complete that program. Respondent shall  
17 provide any information and documents that the program may deem pertinent. Respondent shall  
18 successfully complete the classroom component of the program not later than six (6) months after  
19 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
20 time specified by the program, but no later than one (1) year after attending the classroom  
21 component. The professionalism program shall be at Respondent's expense and shall be in  
22 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

23 A professionalism program taken after the acts that gave rise to the charges in the  
24 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
25 or its designee, be accepted towards the fulfillment of this condition if the program would have  
26 been approved by the Board or its designee had the program been taken after the effective date of  
27 this Decision.

28 Respondent shall submit a certification of successful completion to the Board or its

1 designee not later than 15 calendar days after successfully completing the program or not later  
2 than 15 calendar days after the effective date of the Decision, whichever is later.

3 4. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of  
4 this Decision, and on whatever periodic basis thereafter may be required by the Board or its  
5 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological  
6 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall  
7 consider any information provided by the Board or designee and any other information the  
8 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its  
9 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not  
10 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all  
11 psychiatric evaluations and psychological testing.

12 Respondent shall comply with all restrictions or conditions recommended by the evaluating  
13 psychiatrist within 15 calendar days after being notified by the Board or its designee.

14 5. PSYCHOTHERAPY. If the psychiatric evaluation recommends psychotherapy,  
15 within 60 calendar days of the recommendation, Respondent shall submit to the Board or its  
16 designee for prior approval the name and qualifications of a California-licensed board certified  
17 psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five  
18 years of postgraduate experience in the diagnosis and treatment of emotional and mental  
19 disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment,  
20 including any modifications to the frequency of psychotherapy, until the Board or its designee  
21 deems that no further psychotherapy is necessary.

22 The psychotherapist shall consider any information provided by the Board or its designee  
23 and any other information the psychotherapist deems relevant and shall furnish a written  
24 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
25 psychotherapist with any information and documents that the psychotherapist may deem  
26 pertinent.

27 Respondent shall have the treating psychotherapist submit quarterly status reports to the  
28 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric



1 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of  
2 probation, Respondent is found to be mentally unfit to resume the practice of medicine without  
3 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the  
4 period of probation shall be extended until the Board determines that Respondent is mentally fit  
5 to resume the practice of medicine without restrictions.

6 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

7 6. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective  
8 date of this Decision, Respondent shall submit to the Board or its designee for prior approval as  
9 practice and billing monitors, the name and qualifications of one or more licensed physicians and  
10 surgeons whose licenses are valid and in good standing, and who are preferably American Board  
11 of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or  
12 personal relationship with Respondent, or other relationship that could reasonably be expected to  
13 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
14 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
15 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

16 The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
17 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the  
18 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
19 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
20 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
21 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
22 signed statement for approval by the Board or its designee.

23 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
24 probation, Respondent's practice and billing shall be monitored by the approved monitor.  
25 Respondent shall make all records available for immediate inspection and copying on the  
26 premises by the monitor at all times during business hours and shall retain the records for the  
27 entire term of probation.

28 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective

1 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
2 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
3 shall cease the practice of medicine until a monitor is approved to provide monitoring  
4 responsibility.

5 The monitor(s) shall submit a quarterly written report to the Board or its designee which  
6 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
7 are within the standards of practice of both medicine and billing, and whether Respondent is both  
8 practicing medicine safely, and billing appropriately. It shall be the sole responsibility of  
9 Respondent to ensure that the monitor submits the quarterly written reports to the Board or its  
10 designee within 10 calendar days after the end of the preceding quarter.

11 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
12 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
13 name and qualifications of a replacement monitor who will be assuming that responsibility within  
14 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
15 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
16 notification from the Board or its designee to cease the practice of medicine within three (3)  
17 calendar days after being so notified. Respondent shall cease the practice of medicine until a  
18 replacement monitor is approved and assumes monitoring responsibility.

19 In lieu of a monitor, Respondent may participate in a professional enhancement program  
20 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
21 review, semi-annual practice assessment, and semi-annual review of professional growth and  
22 education. Respondent shall participate in the professional enhancement program at Respondent's  
23 expense during the term of probation.

24 If, after one year of probation, the monitor has determined that Respondent's  
25 practice/billing is appropriate and within the standard of practice, as reported in the monitor's  
26 written quarterly reports to the Board, the monitor shall be relieved of his duties and  
27 responsibilities and Respondent shall be relieved from further compliance with this term and  
28 condition of probation.

1           7.    NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
2 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
3 Chief Executive Officer at every hospital where privileges or membership are extended to  
4 Respondent, at any other facility where Respondent engages in the practice of medicine,  
5 including all physician and locum tenens registries or other similar agencies, and to the Chief  
6 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
7 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
8 calendar days.

9           This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

10          8.    SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
11 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
12 advanced practice nurses.

13          9.    OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
14 governing the practice of medicine in California and remain in full compliance with any court  
15 ordered criminal probation, payments, and other orders.

16          10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
17 under penalty of perjury on forms provided by the Board, stating whether there has been  
18 compliance with all the conditions of probation.

19          Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
20 of the preceding quarter.

21          11. GENERAL PROBATION REQUIREMENTS.

22          Compliance with Probation Unit

23          Respondent shall comply with the Board's probation unit.

24          Address Changes

25          Respondent shall, at all times, keep the Board informed of Respondent's business and  
26 residence addresses, email address (if available), and telephone number. Changes of such  
27 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
28 circumstances shall a post office box serve as an address of record, except as allowed by Business

1 and Professions Code section 2021(b).

2 Place of Practice

3 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
4 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
5 facility.

6 License Renewal

7 Respondent shall maintain a current and renewed California physician's and surgeon's  
8 license.

9 Travel or Residence Outside California

10 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
11 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
12 (30) calendar days.

13 In the event Respondent should leave the State of California to reside or to practice,  
14 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
15 departure and return.

16 12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
17 available in person upon request for interviews either at Respondent's place of business or at the  
18 probation unit office, with or without prior notice throughout the term of probation.

19 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
20 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
21 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
22 defined as any period of time Respondent is not practicing medicine as defined in Business and  
23 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
24 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
25 Respondent resides in California and is considered to be in non-practice, Respondent shall  
26 comply with all terms and conditions of probation. All time spent in an intensive training  
27 program which has been approved by the Board or its designee shall not be considered non-  
28 practice and does not relieve Respondent from complying with all the terms and conditions of

1 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
2 on probation with the medical licensing authority of that state or jurisdiction shall not be  
3 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
4 period of non-practice.

5 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
6 months, Respondent shall successfully complete the Federation of State Medical Boards's Special  
7 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
8 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
9 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

10 Respondent's period of non-practice while on probation shall not exceed two (2) years.

11 Periods of non-practice will not apply to the reduction of the probationary term.

12 Periods of non-practice for a Respondent residing outside of California will relieve  
13 Respondent of the responsibility to comply with the probationary terms and conditions with the  
14 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
15 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
16 Controlled Substances; and Biological Fluid Testing.

17 14. COMPLETION OF PROBATION. Respondent shall comply with all financial  
18 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
19 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
20 be fully restored.

21 15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
22 of probation is a violation of probation. If Respondent violates probation in any respect, the  
23 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
24 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
25 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
26 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
27 the matter is final.

28 16. LICENSE SURRENDER. Following the effective date of this Decision, if


1 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
2 the terms and conditions of probation, Respondent may request to surrender his or her license.  
3 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
4 determining whether or not to grant the request, or to take any other action deemed appropriate  
5 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
6 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
7 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
8 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
9 application shall be treated as a petition for reinstatement of a revoked certificate.

10 17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
11 with probation monitoring each and every year of probation, as designated by the Board, which  
12 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
13 California and delivered to the Board or its designee no later than January 31 of each calendar  
14 year.

15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
17 discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will  
18 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
19 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
20 Decision and Order of the Medical Board of California.

21  
22 DATED: 12/11/2017


  
23 ANTHONY CHIEN-YENG CHEN, M.D.  
Respondent

24 I have read and fully discussed with Respondent ANTHONY CHIEN-YENG CHEN, M.D.  
25 the terms and conditions and other matters contained in the above Stipulated Settlement and  
26 Disciplinary Order. I approve its form and content.

27 ///

28 ///

1  
2 DATED: 12/11/17

  
PETER R. OSINOFF  
Attorney for Respondent

3  
4  
5 ENDORSEMENT

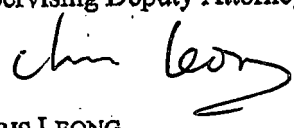
6 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
7 submitted for consideration by the Medical Board of California.

8 Dated:

Respectfully submitted,

9 12/12/2017

XAVIER BECERRA  
Attorney General of California  
ROBERT MCKIM BELL  
Supervising Deputy Attorney General

  
CHRIS LEONG  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 800-2015-014372**



1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 CHRIS LEONG  
Deputy Attorney General  
4 State Bar No. 141079  
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5 300 South Spring Street, Suite 1702  
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Facsimile: (213) 897-9395  
7 E-mail: chris.leong@doj.ca.gov  
*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO May 23 20 17  
BY *[Signature]* ANALYST

8 BEFORE THE  
9 MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2015-014372

12 ANTHONY CHIEN-YANG CHEN, M.D.

ACCUSATION

13 2417 Clear Creek Lane  
14 Diamond Bar, California 91765

15 Physician's and Surgeon's Certificate No. G 74781,  
16 Respondent.

17 Complainant alleges:

18 PARTIES

19 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Director of the Medical Board of California (Board).

21 2. On July 28, 1992, the Board issued Physician's and Surgeon's Certificate number G  
22 74781 to Anthony Chien-Yang Chen, M.D. (Respondent). That license was in full force and  
23 effect at all times relevant to the charges brought herein and will expire on October 31, 2017,  
24 unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board under the authority of the following  
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
28 indicated.

1       4.     Section 2227 of the Code provides that a licensee who is found guilty under the  
2 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
3 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
4 action taken in relation to discipline as the Board deems proper.

5       5.     Section 2234 of the Code, states:

6       “The board shall take action against any licensee who is charged with unprofessional  
7 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
8 limited to, the following:

9       “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
10 violation of, or conspiring to violate any provision of this chapter.

11       “(b) Gross negligence.

12       “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts  
13 or omissions. An initial negligent act or omission followed by a separate and  
14 distinct departure from the applicable standard of care shall constitute repeated  
15 negligent acts.

16       “(1) An initial negligent diagnosis followed by an act or omission medically  
17 appropriate for that negligent diagnosis of the patient shall constitute a single  
18 negligent act.

19       “(2) When the standard of care requires a change in the diagnosis, act, or omission  
20 that constitutes the negligent act described in paragraph (1), including, but not  
21 limited to, a reevaluation of the diagnosis or a change in treatment, and the  
22 licensee's conduct departs from the applicable standard of care, each departure  
23 constitutes a separate and distinct breach of the standard of care.

24       “(d) Incompetence.

25       “(e) The commission of any act involving dishonesty or corruption which is  
26 substantially related to the qualifications, functions, or duties of a physician and  
27 surgeon.

28       “(f) Any action or conduct which would have warranted the denial of a certificate.

1           “(g) The practice of medicine from this state into another state or country without  
2           meeting the legal requirements of that state or country for the practice of medicine.  
3           Section 2314 shall not apply to this subdivision. This subdivision shall become  
4           operative upon the implementation of the proposed registration program described  
5           in Section 2052.5.

6           “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend  
7           and participate in an interview by the board. This subdivision shall only apply to a  
8           certificate holder who is the subject of an investigation by the board.”

9           6.     Section 2261 of the Code states:

10           “Knowingly making or signing any certificate or other document directly or indirectly  
11           related to the practice of medicine or podiatry which falsely represents the existence or  
12           nonexistence of a state of facts, constitutes unprofessional conduct.”

13           7.     Section 810 of the Code states:

14           “(a) It shall constitute unprofessional conduct and grounds for disciplinary action,  
15           including suspension or revocation of a license or certificate, for a health care  
16           professional to do any of the following in connection with his or her professional  
17           activities:

18           (1) Knowingly present or cause to be presented any false or fraudulent  
19           claim for the payment of a loss under a contract of insurance.

20           (2) Knowingly prepare, make, or subscribe any writing, with intent to  
21           present or use the same, or to allow it to be presented or used in support  
22           of any false or fraudulent claim.

23           “(b) It shall constitute cause for revocation or suspension of a license or certificate for a  
24           health care professional to engage in any conduct prohibited under Section 1871.4  
25           of the Insurance Code or Section 549 or 550 of the Penal Code.

26           “(c) (1) It shall constitute cause for automatic suspension of a license or certificate  
27           issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5  
28           (commencing with Section 2000), Chapter 6.6 (commencing with Section

2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate.

- (2) It shall constitute cause for automatic suspension and for revocation of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has more than one conviction of any felony arising out of separate prosecutions involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the

1 Welfare and Institutions Code. The board shall convene a disciplinary  
2 hearing to revoke the license or certificate and an order of revocation  
3 shall be issued unless the board finds mitigating circumstances to order  
4 some other disposition.

5 (3) It is the intent of the Legislature that paragraph (2) apply to a licensee or  
6 certificate holder who has one or more convictions prior to January 1,  
7 2004, as provided in this subdivision.

8 (4) Nothing in this subdivision shall preclude a board from suspending or  
9 revoking a license or certificate pursuant to any other provision of law.

10 (5) "Board," as used in this subdivision, means the Dental Board of  
11 California, the Medical Board of California, the Board of Psychology,  
12 the State Board of Optometry, the California State Board of Pharmacy,  
13 the Osteopathic Medical Board of California, and the State Board of  
14 Chiropractic Examiners.

15 (6) "More than one conviction," as used in this subdivision, means that the  
16 licensee or certificate holder has one or more convictions prior to  
17 January 1, 2004, and at least one conviction on or after that date, or the  
18 licensee or certificate holder has two or more convictions on or after  
19 January 1, 2004. However, a licensee or certificate holder who has one  
20 or more convictions prior to January 1, 2004, but who has no  
21 convictions and is currently licensed or holds a certificate after that  
22 date, does not have "more than one conviction" for the purposes of this  
23 subdivision.

24 "(d) As used in this section, health care professional means any person licensed or  
25 certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative  
26 Act, or the Chiropractic Initiative Act.

8. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

**FIRST CAUSE FOR DISCIPLINE**

(Gross Negligence – Patient E.C.)

9. Respondent is subject to disciplinary action under Code section 2234, subdivision (b), in that he was grossly negligent in the care and treatment of Patient E. C. The circumstances are as follows:

10. As of 2016, patient E. C.<sup>1</sup>, had been a patient of Respondent for more than 10 years. E. C. and Respondent were students together at a university. They have an ongoing business relationship in which E. C. worked in an accounting firm servicing Respondent. Currently, their business relationship persists, but their doctor-patient relationship has ceased. According to Respondent's medical records, E. C. had a variety of medical conditions over this period including hypertension, hyperlipidemia, gastro-esophageal reflux disease, iron deficiency anemia, depression and anxiety, among others. E. C. disputes the diagnoses of depression and anxiety.

11. In September 2014, E. C. consulted an oncology physician, who informed him that his medication history records showed that he was on anti-depressants (i.e., Sertraline and Zoloft). E. C. was surprised by this information because, in fact, he has never taken anti-depressants.

12. In January 2015, E. C. checked his account statement from his insurance company and saw that his statement included prescriptions for a drug called Sertraline. The prescriptions included one that was dated December 18, 2014. During that time, E. C. was not in the U.S.A. E. C. did not know what Sertraline was. The prescriptions were filled at Puente Hills Pharmacy.

13. In February 2015, E. C. went to Puente Hills Pharmacy and spoke to pharmacist R. W. The patient asked the pharmacist what Sertraline was and was informed that the drug was for depression. E. C. had never been diagnosed with depression nor had he taken Sertraline. E. C. contacted Respondent by text around the same time to ask about the prescriptions for Sertraline. However, Respondent did not respond.

<sup>1</sup> Names are reduced to initials for privacy.

14. Respondent was interviewed by the Board. He admitted writing these prescriptions with refills for sertraline for E. C. He stated that he initially intended only to pick up the medication because E. C. was not coming in for care and he wanted to persuade E. C. to come get them directly from him. Respondent admitted that when this approach failed, he just began taking the medication himself. Respondent admitted that he picked up multiple refills of this medication, which he admitted through recognition of his signature.

15. Respondent picked up the prescriptions and signed an illegible signature. Respondent used E. C.'s insurance to pay for the prescriptions. The acquisition cost of the medication was greater than the co-pay. Respondent only paid the co-pay. Respondent consumed the medications for his own use. Respondent prescribed Sertraline HCL 100 mg, quantity 30 ostensibly to patient E. C., as follows:

<u>Rx Date</u>	<u>Prescription No.</u>	<u>Picked up</u>	<u>Acquisition Cost (ACQ)</u>	<u>Co-pay</u>
July 13, 2013	1023949	July 31, 2013	\$81.36	\$10.00
July 13, 2013	1023949	December 12, 2013	\$81.36	\$5.20
July 13, 2013	1023949	January 23, 2014	\$81.36	\$5.20
June 13, 2013	1023949	March 6, 2014	\$81.38	\$5.20
June 13, 2014	1058170	June 13, 2014	\$81.38	\$10.02
June 13, 2014	1058170	August 9, 2014	\$81.36	\$12.03
July 13, 2014	1023949	September 13, 2014	\$81.38	\$12.03
July 13, 2014	1056170	November 7, 2014	\$81.36	\$14.03
June 13, 2014	1056170	December 18, 2014	\$81.36	\$11.03

16. Respondent was grossly negligent in the care and treatment of patient E. C. by the following acts or omissions, separately and together. Respondent persistently and repeatedly prescribed medication to a patient who was not taking them so that he could use them for himself.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 (Repeated Negligent Acts)

3 17. By reason of the facts alleged in the First Cause for Discipline, Respondent is subject  
4 to disciplinary action under Code section 2234, subdivision (c), in that he was repeatedly  
5 negligent in the care and treatment of patient E. C.

6 **THIRD CAUSE FOR DISCIPLINE**

7 (Dishonesty)

8 18. By reason of the facts alleged in the First Cause for Discipline, Respondent is subject  
9 to disciplinary action under Code section 2234, subdivision (e), in that he engaged in acts of  
10 dishonesty which are substantially related to the functions or duties of a physician and surgeon.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 (False Representation)

13 19. By reason of the facts alleged in the First Cause for Discipline, Respondent is subject  
14 to disciplinary action under Code section 2261, in that he made false statements which are  
15 substantially related to the functions or duties of a physician and surgeon.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 (Insurance Fraud)

18 20. By reason of the facts alleged in the First Cause for Discipline, Respondent is subject  
19 to disciplinary action under Code section 810(a)(2), in that he billed an insurance fraudulently.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 (Failure to Maintain Adequate and Accurate Records)

22 21. Respondent is subject to disciplinary action under Code section 2266 in that he failed  
23 to maintain adequate and accurate records relating to his provision of services to patient E. C.  
24 The facts and circumstances alleged in the First Cause for Discipline are incorporated as is fully  
25 set forth.

26 **SEVENTH CAUSE FOR DISCIPLINE**

27 (Unprofessional Conduct)

28 //



1 22. By reason of the facts alleged in the First Cause for Discipline, Respondent is subject  
2 to disciplinary action under Code section 2234 in that engaged in unprofessional conduct.

3 PRAYER

4 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Medical Board of California issue a decision:

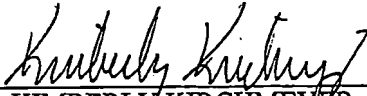
6 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 74781,  
7 issued to Anthony Chien-Yang Chen, M.D.;

8 2. Revoking, suspending or denying approval of his authority to supervise physician  
9 assistants, pursuant to section 3527 of the Code, and advanced practice nurses.

10 3. If placed on probation, ordering him to pay the Board the costs of probation  
11 monitoring; and

12 4. Taking such other and further action as deemed necessary and proper.

13  
14 DATED: May 23, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California

Complainant

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